

LOCAL RULES OF COURT

SUPERIOR COURT OF CALIFORNIA, COUNTY OF INYO

Effective: January 1, 2002

**Superior Court of California, County of Inyo
Courthouse, 168 North Edwards Street
Post Office Drawer U
Independence, California 93526
Tel: (760) 878-0297**

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LOCAL RULES OF COURT
SUPERIOR COURT OF CALIFORNIA, COUNTY OF INYO

I

GENERAL INFORMATION

1.1 UNIFIED COURT

The Superior Court of the State of California, County of Inyo, is a two-judge Court that was officially unified effective July 1, 1998. The Court is also served by a part-time Title IV-D Family Support Commissioner. (Adopted, effective January 1, 2002)

1.2 COURT WEBSITE

The Court maintains an official Internet website located at www.inyocourt.ca.gov. The current website address can be obtained or verified by contacting by the Office of the Court's Executive Officer at 301 West Line Street Bishop, California 93514 Tel: (760) 872-2599. (Adopted, effective January 1, 2002)

II

GENERAL RULES

RULE 2.1 CITATION OF RULES

These Rules shall be known and cited as the "Local Rules of Court" for the Superior Court of California, County of Inyo.
(Adopted, effective January 1, 2002)

RULE 2.2 EFFECT OF RULES

These Rules shall, on their effective date, supersede all local court rules previously adopted.
(Adopted, effective January 1, 2002)

RULE 2.3 AVAILABILITY OF LOCAL RULES

These Rules shall be available for inspection and copying in the Court Clerk's Office (Depts. 1 & 3) and Administrative Office of the Court located in the Courthouse 168 North Edwards Street (P.O. Drawer U) Independence, California 93526 Tel: (760) 878-0217, and at the Court Clerk's Office (Dept. 4) and Executive Office of the Court located at 301 West Line Street, Bishop, California 93514 Tel: (760) 872-2599. (Adopted, effective January 1, 2002)

Local Rules of Court - Inyo County Superior Court (Rev. 1-1-2002)

RULE 2.4 RULE AGAINST BIAS

It is the policy of the Court to provide an environment free of all types of bias, prejudice and any kind of discrimination or unfair practice. All judges, commissioners, referees, court officers and court attaches shall not engage in any act of bias based on race, gender, age, national origin, religion, sexual orientation, or disability, and shall otherwise perform their duties in a manner to prevent any such conduct, either by court personnel or by those appearing in court in any capacity.
(Adopted, effective January 1, 2002)

RULE 2.5 RESPONSIBILITIES OF THE COUNTY CLERK TO BE PERFORMED BY THE EXECUTIVE OFFICER OF THE SUPERIOR COURT

Pursuant to the provisions of Government Code § 68114.6; the "Memorandum of Understanding," executed February 6, 1998, between the sole Judge of the Superior Court of the State of California for the County of Inyo, and the sole Judge of the Municipal Court of the State of California for the County of Inyo; the Inyo County Trial Court Coordination Plan, effective July 1, 1998; and, the Certification of the Judicial Council of California that the Municipal and Superior Courts of Inyo County are unified effective July 1, 1998; all powers, duties, and responsibilities required or permitted to be exercised or performed by the County Clerk of Inyo County, in connection with judicial actions, proceedings, and records shall be exercised or performed by the Executive Officer of the Superior Court of California, County of Inyo.
(Effective July 1, 1998)

RULE 2.6 STANDING ORDERS

Copies of all standing orders issued by the Court can be obtained from the Executive Office of the Court, P.O. Drawer U, Independence, California 93526, or the Office of the Court Clerk (Dept. 1) at the Courthouse located at 168 North Edwards Street, Independence, California 93526. (Adopted, effective January 1, 2002)

RULE 2.7 COURT REPORTER

(a) The Court only arranges and provides for the Official Court Reporter to report adoption, felony criminal cases (from the preliminary examination through all subsequent felony criminal proceedings), L.P.S. Conservatorship, Welfare & Institutions Code § 300 Dependency, and Welfare & Institutions Code §§ 601 and 602 Juvenile cases.

(b) The Court, in its discretion may also require the Court Reporter to report any specially set matters.

(c) Parties may contact the Official Court Reporter, Mr. C. Wayne Cox at Post Office Box 325, Independence, California 93526, or telephone (760) 878-0225 or (760) 872-5559. Parties desiring a proceeding to be reported shall make their own arrangements directly with the Court Reporter. Requests for the services of the Court Reporter must be made as soon as possible.

(d) Deposit of reporter fees are to be made at least fourteen (14) days prior to trial, in the following amounts:

One or two days of trial	\$300.00
Three or more days of trial	\$600.00

The amount of \$275.00 per day is payable by the end of the trial.

(e) Any deposit of fees on behalf of the Reporter shall be forfeited if the Court and Court Reporter have not been notified ten (10) days prior to the trial date that the matter will not proceed.
(Effective January 1, 2002)

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RULE 2.8 MINUTE ORDERS

(a) The Clerk's Minutes taken at a court proceeding or given by the Judge shall be deemed as "Minute Orders."

(b) The Clerk shall place an original Minute Order in the file of the particular action or proceeding in which it was made as soon as reasonably possible.

(c) The Clerk's Minute Order shall be an official record of the Court proceedings when there is no Court Reporter present.

(Effective July 1, 1992)

RULE 2.9 COUNTY PRISONERS

If a person being held as a prisoner in the Inyo County Jail is a party to an action, parent or legal guardian of a child in a dependency or juvenile action, the prisoner shall be present in court, unless otherwise ordered by the Court. It shall be the responsibility of the moving party to notify the Court's Bailiff as soon as possible, and in no event later than 24 hours before the scheduled hearing, that the prisoner's presence is required.

(Effective January 1, 2002)

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RULE 2.10 INTERPRETERS

The Court shall be notified as soon as possible if any party or intended witness requires the services of an interpreter. For proceedings in the Bishop Court (Dept. 4), the Clerk may be notified at (760) 872-2597. For proceedings in Independence (Depts. 1, 2, & 3), the Court's Administrator may be contacted at (760) 878-0217. (Adopted, Effective January 1, 2002)

III

APPLICABILITY AND SANCTIONS

RULE 3.1 APPLICATION OF GENERAL COURT RULES

These Rules are in addition to, and do not supersede, applicable state rules unless specifically authorized. (Adopted, effective January 1, 2002)

RULE 3.2 SANCTIONS AUTHORIZED

Any unjustified failure to comply with the requirements of any local rule of the Superior Court of the State of California, County of Inyo may result in the imposition of sanctions, including assessment of fines, court costs or attorney fees against the offending party, or other sanctions as determined by the Court, including issue preclusion, exclusion of evidence, striking of pleadings, or dismissal of an action or cause of action. (Adopted, effective January 1, 2002)

IV

JURY COMMISSIONER

RULE 4.1 ORDER FOR DRAWING OF JURY

Whenever the business of the Court shall require the attendance of a trial jury, the Jury Commissioner shall direct that a trial jury venire be drawn and summoned to attend before the Court in such a number and at such a time as shall be appropriate for the conduct of the trials for which juries are required. This rule constitutes a continuing delegation to the Jury Commissioner of the Court's authority pursuant to Code of Civil Procedure § 196. (Adopted, effective January 1, 2002)

RULE 4.2 EXCUSES FROM TRIAL JURY SERVICE

Pursuant to Code of Civil Procedure § 204, the Jury Commissioner is empowered to grant excuses from trial jury service to such prospective jurors who, in the opinion of the Jury Commissioner, qualify for excuses under Code of Civil Procedure § 218. In exercising the authority herein conferred, the Jury Commissioner will apply the following principles:

(a) Categorical Exclusions. No class or category of persons will be automatically excluded from jury duty except as provided by law.

(b) Statutory Exemptions. A statutory exemption from jury service will be granted only when the eligible person claims it.

(c) Deferment Preferred to Exclusion. Deferring jury service will be preferred to excusing a prospective juror for a temporary or marginal hardship.

(d) Inconvenience Inadequate Ground. Inconvenience to a prospective juror or an employer is not an adequate reason to be excused from jury duty, although it may be considered a ground for deferral.

(e) Request to Be Excused. All requests to be excused from jury service that are granted for undue hardship will be in writing from the prospective juror, or reduced to writing, and placed on the Court's record. The prospective juror will support the request with facts specifying the hardship and a statement why the circumstances constituting the undue hardship cannot be avoided by deferring the prospective juror's service.

(f) Grounds Constituting Undue Hardship. An excuse on the ground of undue hardship may be granted for any of the following reasons:

(1) The prospective juror has no reasonably available means of public or private transportation to the court.

(2) The prospective juror must travel more than one and one-half hours from the prospective juror's home to the court.

(3) The prospective juror will bear an extreme financial burden. In determining whether to excuse the prospective juror, consideration should be given to:

a. the sources of the prospective juror's household income;

b. the availability and extent of income reimbursement;

c. the expected length of service; and,

d. whether service can reasonably be expected to compromise that person's ability to support himself or his or her dependents, or so disrupt the economic stability of any individual as to be against the interests of justice.

(4) The prospective juror will bear an undue risk of material injury to or destruction of the prospective juror's property or property entrusted to the prospective juror, where it is not feasible to make alternative arrangements to alleviate the risk. In determining whether to excuse the prospective juror, consideration will be given to:

a. the nature of the property;

b. the source and duration of the risk;

c. the probability that the risk will be realized;

d. the reason why alternative arrangements to protect the property cannot be made; and,

e. whether material injury to or destruction of the property will so disrupt the economic stability of any individual so as to be against the interests of justice.

(5) The prospective juror has a physical or mental disability or impairment, not affecting that person's competence to act as a juror, that would expose the potential juror to an undue risk of mental or physical harm. In any individual case, except whether the person is aged 70 years or older, the prospective juror may be required to furnish a

Local Rules of Court - Inyo County Superior Court (Rev. 1-1-2002)

verification or a method of verification of the disability or impairment, its probable duration, and the particular reason for the person's inability to serve as a juror.

(6) The prospective juror's services are immediately needed for the protection of the public health and safety, and it is not feasible to make alternative arrangements to relieve the person of these responsibilities during the period of service as a juror without substantially reducing essential public services.

(7) The prospective juror has a personal obligation to provide actual and necessary care to another including sick, aged, or infirm dependents, or a child who requires the prospective juror's personal care and attention, and no comparable substitute care is either available or practical without imposing an undue economic hardship on the prospective juror or person cared for. Where the request to be excused is based on care provided to a sick, disabled, or infirm person, the prospective juror may be required to furnish verification or a method of verification that the person being cared for is in need of regular and personal care.

(Adopted, effective January 1, 2002)

V

COURT SESSIONS

RULE 5.1 REGULAR LAW AND MOTION

Regular adult law and motion sessions are generally scheduled on selected Fridays. Regular juvenile law and motion sessions are generally scheduled on selected Tuesdays for northern Inyo cases, and selected Wednesdays for dependency cases, children detained in the Inyo County Juvenile Detention Facility, and southern Inyo juvenile cases. A copy of the Court's calendar may be obtained by contacting the Court's Calendar Clerk or Administrator. As calendars are subject to change, consultation should be made with the Court's Calendar Clerk or Administrator, so to confirm current calendar dates. No matter shall be set on an adult or juvenile law and motion calendar that is estimated to exceed 15 minutes without the prior approval of the Court. All matters with time estimate in excess of 15 minutes shall be set by the Court, Court's Calendar Clerk, or Court's Administrator.
(Adopted, effective January 1, 2002)

RULE 5.2 EX PARTE HEARINGS

To maximize judicial efficiency, this Court does not maintain a regular calendar for hearing of ex parte applications. A specific date, time, and location for all ex parte hearings may be obtained from the Court's Calendar Clerk, or Court's Administrator. At a minimum, notice shall be given as provided by the provisions of California Rules of Court, Rule 379. This local rule does not apply to ex parte applications for domestic violence or civil harassment restraining orders, elder or dependent adult protective orders, applications in criminal cases for the appointment of confidential defense experts or investigators, or as otherwise provided by rule or statute.
(Adopted, effective January 1, 2002)

VI

CIVIL PROCEEDINGS

RULE 6.1 SCOPE OF CHAPTER

This chapter applies to all general civil cases. "General Civil Case" means all civil cases except probate, guardianship, conservatorship, family law (including proceedings under the Family Law Act, Uniform Parentage Act, and Uniform Child Custody Jurisdiction Act, freedom from parental custody and control proceedings, and adoption proceedings), juvenile court proceedings, small claims and small claims appeals, and "other civil petitions," including petitions for writ of mandate or prohibition, temporary restraining order, civil harassment restraining order, domestic violence restraining order, writ of possession, appointment of a receiver, release of property from lien, and change of name.

(Adopted, effective January 1, 2002)

RULE 6.2 DEFINITIONS

(a) The term "counsel" includes parties representing themselves; and,

(b) The term "defendant" also includes cross-defendants.

(Adopted, effective January 1, 2002)

RULE 6.3 TRANSFERRED CASES

All cases transferred from another jurisdiction are subject to these rules.

(Adopted, effective January 1, 2002)

RULE 6.4 DELAY REDUCTION POLICY

(a) It is the policy of this Court to conclude 90 percent of all civil litigation cases within 12 months of the filing of the Complaint. These cases shall be known as "Plan 1" cases.

(b) It is the policy of this Court to conclude 98 percent of all civil litigation cases within 18 months of the filing of the Complaint. These cases shall be known as "Plan 2" cases.

(c) It is the policy of this Court to conclude 100 percent of all civil litigation cases within 24 months of the filing of the Complaint. These cases shall be known as "Plan 3" cases.

(d) All cases are presumed to be Plan 1 cases which shall be concluded within 12 months of filing of the Complaint, unless upon a showing of good cause, the Court grants an application to

otherwise designate the action. General civil cases will only be exempted from the aforesaid delay reduction objectives and rules upon proper application and requisite showing of exceptional circumstances as provided by California Rules of Court, Rules 2105 and 2106.

(e) It is the policy of this Court that once any date has been set, it cannot be changed without a showing of good cause.

(Adopted, effective January 1, 2002)

RULE 6.5 FILING OF THE COMPLAINT

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Upon filing a Complaint, the Plaintiff shall receive the following from the Clerk:

- (a) Summons and Complaint indicating the case number;
 - (b) Notice and date of the Case Management and Trial Setting Conference, which will be set within one hundred fifty (150) days of the filing of the original Complaint; and,
 - (c) A blank Case Management Conference Questionnaire. (Any Cross-Complainant naming new parties will also be served with a blank Case Management Conference questionnaire).
- (Adopted, effective January 1, 2002)

RULE 6.6 SERVICE OF SUMMONS, COMPLAINT, AND NOTICE OF CASE MANAGEMENT AND TRIAL SETTING CONFERENCE

(a) At the time of serving the Summons and Complaint (and a Cross-Complaint upon a new party), the responding party shall be served with the Notice of the Case Management and Trial Setting Conference, and a blank Case Management Conference Questionnaire.

(b) Within sixty (60) days of filing, the Complaint must be served and a proof of service filed with the Court. When a complaint is voluntarily amended for the first time, pursuant to CCP § 472, before the Defendant answers (even after demurrer), the time herein shall run from the file date of the amended Complaint.

(c) Upon failure to serve the Complaint and file a proof of service as required above, an Order to Show Cause shall issue as to why sanctions should not be imposed for failure to comply with this Rule. Responsive papers to the Order to Show Cause must be filed and served five (5) days in advance of the hearing.

(Adopted, effective January 1, 2002)

Local Rules of Court - Inyo County Superior Court (Rev. 1-1-2002)

RULE 6.7 RESPONSIVE PLEADINGS

- (a) Each party served shall file and serve all necessary responsive pleadings within the time required by law.
- (b) Absent the filing of the responsive pleadings, the Plaintiff is required, within ten (10) days after the statutory time for filing the responsive pleadings, to request the entry of default, as herein provided. Failing that, an Order to Show Cause will issue as to why sanctions should not be imposed. Responsive papers to the Order to Show Cause must be filed and served five (5) days in advance of the hearing.
- (c) After a request for entry of default is filed, the Court will set and notice the case for default hearing. In lieu of appearance and in an appropriate case, a declaration under Code of Civil Procedure § 585 may be submitted.
- (d) Default hearings and judgments need not be pursued in multi-defendant cases until the entire action against all responding defendants has concluded.
- (e) Parties may seek to set aside a default by a stipulation submitted with a proposed Order. If the Court approves the Order, an Answer or other responsive pleading must be filed within ten (10) days of the filing of the Order.
(Adopted, effective January 1, 2002)

RULE 6.8 MOTIONS TO AMEND PLEADINGS

Proposed amended pleadings shall be separately lodged with the Clerk for potential filing, with a true and correct copy attached as an exhibit to the moving papers.
(Adopted, effective January 1, 2002)

RULE 6.9 CASE MANAGEMENT CONFERENCE QUESTIONNAIRE

Each appearing party shall file and serve a completed Case Management Conference Questionnaire at least five (5) court days before the first Case Management and Trial Setting Conference.
(Adopted, effective January 1, 2002)

RULE 6.10 CASE MANAGEMENT AND TRIAL SETTING CONFERENCE

(a) Counsel for each appearing party shall attend the Case Management and Trial Setting Conference, unless the parties have arranged with the Court's Calendar Clerk, at least five days prior to the conference, to have the conference conducted by telephone. Such arrangements for a telephone conference shall be confirmed in writing, specifying which counsel will be appearing telephonically, what telephone number they will be communicating from, and who will be responsible making conference call arrangements.

(b) Counsel appearing at the Case Management and Trial Setting Conference shall be familiar with the case, prepared to discuss all matters, and commit to the setting of a trial date, and other pre-trial settings. Counsel who fail to attend or participate shall be subject to sanctions.

(c) At the Case Management and Trial Setting Conference, the Court may make all appropriate pretrial orders, including, but not necessarily limited to, the following:

1. Dismiss Defendants, with the exception of DOE defendants. Orders dismissing defendants, fictitious cross-defendants, served and unserved defendants and cross-defendants who have not appeared and against whom no default has been taken, unless the Court for good cause otherwise orders and sets a date by which they shall be served;

2. Make Orders on stipulations to binding arbitration, judicial arbitration, set the date for completion of the arbitration and filing of the award, and/or set a future status conference date for referral to arbitration. The Court and parties shall examine and consider alternative dispute resolution programs and procedures available to the parties;

3. Upon stipulation or the Court's determination that it is reasonably probable that the amount in controversy will not exceed \$25,000, make Orders transferring and/or designating the case as a "Limited Civil Case" within the meaning of California Code of Civil Procedure §§ 85 et. seq.;

4. Make Orders establishing a plan regulating the timing, scope, issues, and deadlines for completing any remaining discovery;

5. Make Orders scheduling the exchange of information relating to expert witnesses required under Section 2034 of the Code of Civil Procedure and depositions of expert witnesses unless the parties stipulate that no expert witnesses will be called. The Court shall closely examine a claim that multiple expert witnesses are required;

6. Make Orders scheduling dates by which law and motion matters must be completed; and,

7. Make Orders setting further interim case management/status conferences, setting the mandatory settlement conference, pretrial conference, and the trial date.

(d) Failure to file cross-complaints shall not be considered a valid ground for enlarging the time for trial, arbitration or other processes. Untimely cross-complaints shall, in most cases, be served so as not to delay the orderly processes of the court.

(Adopted, effective January 1, 2002)

RULE 6.11 MANDATORY SETTLEMENT CONFERENCE

(a) As to all cases, Mandatory Settlement Conferences shall be set approximately six (6) weeks prior to the trial, or at such other date the Court determines to be appropriate. In selecting a date for the Settlement Conference, the Court will consider the needs of the party to conduct discovery and to otherwise be prepared to engage in a meaningful settlement conference. The settlement conference will be set sufficiently prior to trial so to avoid the potential of unnecessarily obtaining the assignment of a visiting trial judge, and/or the issuance of summons to prospective jurors. The Settlement Conference will also be set on a date which in the Court's opinion promotes the orderly calendaring of the Court's business, and promotes judicial efficiency and economy.

(b) Settlement Conferences are mandatory and require personal appearances of all attorneys who will be actually trying the case. Personal appearances are also mandatory for all parties. In those cases where a party is represented by an insurance carrier, or in any tort case wherein a party who might be liable for damages has insurance coverage, a representative of that carrier must also be present, who is authorized to make all decisions regarding the case, unless excused by the judge. Where such an excuse has been granted, such representative must be immediately accessible by telephone at all times during the conference. Corporate parties and governmental entities must be represented by a responsible officer in addition to and separate from counsel for such parties, who are authorized to make all decisions regarding the case, subject only to the approval of any governing board having the ultimate power to make such decisions.

(c) Each party shall serve and file at least five (5) judicial days prior to the Settlement Conference, a settlement conference brief including a statement identifying the parties and their attorneys, a statement of facts, injuries, damages, legal issues and contentions, and a statement as to the status of settlement negotiations between the parties to date.

(d) The failure of any person to appear at, prepare for, or participate in good faith in a mandatory settlement conference, in conformity with the requirements of these rules, unless good cause is shown for such failure, is an unlawful interference with the proceedings of the Court and may result in sanctions.
(Adopted, effective January 1, 2002)

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RULE 6.12 MOTIONS IN LIMINE

Generally the Court summons jurors for individual trials. It is the policy of the Court to minimize delay and inconvenience for prospective jurors and trial jurors. Absent leave of Court, upon a showing of good cause, all motions in limine shall be heard at the Pretrial Conference, be in writing, and are to be served and filed at least five (5) judicial days prior to the Pretrial Conference. (Adopted, effective January 1, 2002)

RULE 6.13 INSPECTION OF EXHIBITS

Prior to the Pretrial Conference, attorneys for all parties shall have personally inspected all pre-marked exhibits which are intended by the attorneys to be used at the time of trial. (Adopted, effective January 1, 2002)

RULE 6.14 SUBMISSION OF JUDGE'S COPY OF PLEADINGS AND EXHIBITS

On a case by case basis, the Court may direct the parties to lodge with the Court an additional copy of any or all pleadings and exhibits, so that the same may be used by the Court. (Adopted, effective January 1, 2002)

RULE 6.15 PRETRIAL CONFERENCE

(a) The Court shall set a pretrial conference date approximately five (5) judicial days prior to the date of trial. Personal appearances are mandatory for all attorneys representing the parties, and who will actually be trying the case.

(b) At least five (5) judicial days prior to the pretrial conference, counsel shall have served, exchanged, and filed with the Court the following:

1. A proposed short statement of the case to be read to the jury. Counsel shall meet and confer and make a good faith effort to submit an agreed upon joint statement of the case.
2. Any proposed voir dire questionnaires;
3. A witness list containing a brief statement of anticipated testimony of each witness;
4. A list of pre-marked exhibits to be used at trial;
5. Requested BAJI and special jury instructions;
6. Proposed verdict forms, and in any case where special verdicts or findings will be required, proposed form of any special verdicts or interrogatories which will be required for the resolution of the case;
7. Any in limine motions; and,
8. A Pretrial Conference Brief which includes an estimate as to the length of trial, a statement of the facts, law and respective contentions of the parties regarding liability, damages, nature and extent of injuries, any unusual evidentiary or legal issues anticipated at trial, and all matters of fact believed by any party to be appropriate for stipulation.

(c) Transcripts of all depositions which will be utilized during the trial shall be lodged with the Clerk of the Court prior to or at the time of the Pretrial Conference. The Court will utilize the lodged deposition, and it is counsel's responsibility to provide sufficient copies for use by counsel and the witness, if desired.
(Adopted, effective January 1, 2002)

RULE 6.16 WITNESSES

Once trial is commenced, each party shall have witnesses available to utilize to the fullest extent possible every trial day.
(Adopted, effective January 1, 2002)

Local Rules of Court- Inyo County Superior Court (Rev. 1-1-2002)

RULE 6.17 COURT REPORTER

The Court neither provides nor arranges for the services of a court reporter in general civil cases.
(Adopted, effective January 1, 2002)

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RULE 6.18 JUDICIAL ARBITRATION

While this Court does not mandate arbitration in all cases, as allowed by Code of Civil Procedure § 1141.11(b), in cases where the Court determines that the amount in controversy is \$50,000 or less, the Court in its discretion, may mandate that the matter be submitted to arbitration.

(Adopted, effective January 1, 2002)

RULE 6.19 SANCTIONS

If the Court finds that any party has not proceeded with due diligence or has otherwise failed to comply these Rules, sanctions may be imposed.

(Adopted, effective January 1, 2002)

VII

FAMILY LAW RULES

RULE 7.1 FINANCIAL ISSUES

The following rules apply to all Family Law, Domestic Violence, Paternity, and District Attorney Family Support proceedings where any financial matter is at issue, including, but not necessarily limited to, any request for child support, spousal support, family support, or attorneys fees and/or costs. The Court strongly encourages the parties to completely and timely disclose all relevant financial information to each other and the Court whenever a financial matter is at issue.

(a) REQUIREMENT OF COMPLETED INCOME AND EXPENSE DECLARATION. In all such proceedings, prior to every default hearing and every contested hearing, there shall be served and filed by each party an Income and Expense Declaration and a Property Declaration, on the forms prescribed respectively by the California Rules of Court, unless the matter to be considered at the hearing does not involve the consideration of any financial issue. Such statements shall show conditions as they existed no earlier than 60 days prior to the hearing, shall be executed by the declarant on a date not earlier than 60 days prior to the hearing, shall be completely filled out so that every blank calling for information available to the declarant is filled out (with the word "none," if that be an appropriate response), and shall be filed no later than two court days prior to the hearing, unless an earlier filing is required by rule of statute. Parties are encouraged to serve and file such declarations at least five (5) days prior to any such hearing. An Income and Expense Declaration is not fully complete unless it contains the following:

1. Schedules wherever required (including all business income, commission income, rental income, interest income, etc.) These schedules shall completely set forth the source of income, total gross income, an itemization of all deductions, and the net income after deductions. Business expense schedules shall identify depreciation and any other non-cash expenses.

2. A fully completed section on attorney's fees, including the hourly rate, if any, even if attorney's fees have not been requested.

3. A schedule of bonuses, if any, setting forth the amount and date of the most recent bonus, the date on which the next bonus is expected to be received, and the amount of the next bonus (if known)

4. A statement of overtime and a description of the frequency of receipt.

5. An estimate of the other party's income.

6. Proof of self-employment income. If a party is self-employed, the income and expense declaration shall contain a full description of current year's claimed income and expenses and depreciation if the party is

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self-employed. In the event the other party requires additional time for hearing on the examination of these expenses, the court may consider a motion to set the matter over for hearing to a date certain.

(b) REQUIREMENT OF EXCHANGE OF FINANCIAL DOCUMENTS; PENALTY FOR LACK OF COMPLIANCE. In addition to timely service and filing of any and all moving papers, opposition, or reply documents, as required by law and these Rules, each party shall exchange, at least five (5) days prior to any hearing involving financial matters (unless an earlier time is required by rule or statute), wage stubs or other documents evidencing income for the preceding three (3) months. Additionally, each party shall provide to the other a copy of the party's most recent federal income tax return. If the hearing is scheduled between February 1 and the date the parties' tax return is filed, copies of all W-2 forms, 1099 forms, and other forms reflecting receipt of income during the previous year shall be exchanged. Where available, a self-employed party shall provide his/her most recent business profit and loss or financial statement. A failure to comply with this rule may result in an adverse ruling or either monetary, issue, or terminating sanctions.

(Adopted, effective January 1, 2002)

RULE 7.2 DETERMINATION OF CHILD AND SPOUSAL SUPPORT

(a) For the purpose of determining guideline child support, the Court adopts the "Santa Clara County Guidelines." The Court uses the *Dissomaster* computer software program.

(b) If the non-custodial parent is exercising visitation with the minor child or children, his or her custody time shall be presumed to be 20% absent evidence to the contrary.

(c) An award of temporary spousal support, may in the Court's discretion, be calculated at forty percent (40%) of the supporting (payor) spouse's net income subject to reduction by fifty percent (50%) of the supported (payee) spouse's net income. The Court may in its discretion also consider, for the limited purpose of making an award of temporary spousal support, *Dissomaster* determinations. The provisions of this Rule are not intended to limit the Court's discretion except as otherwise provided by applicable law.
(Adopted, effective January 1, 2002)

RULE 7.3 CHILD CUSTODY

The Court is committed to the principle that parents should retain responsibility for child rearing and should not abdicate that authority to the Court. Consequently, extraordinary efforts are expended to assist parents in resolving differences and formulating a parenting plan that is in the best interest of the children. Mediation provides a framework within which parents can make their own decisions regarding the lives of their children. The Court believes that agreements made by the parties which are mutually viewed as being in the best interest of the children, have a substantially greater likelihood of successful implementation. Parties who are able to reach mediated agreements, especially during the early stages of separation and/or dissolution, significantly reduces the likelihood of costly and emotionally damaging litigation at every milestone in the child's life. Parties are encouraged to resolve disputes by using all available resources, including mediation in the private sector. If any parenting (custody/visitation) issues remain unresolved, "Court Mediation" is required prior to hearing.
(Adopted, effective January 1, 2002)

RULE 7.4 COURT MEDIATION AND PARENT EDUCATION

(a) If any issue pertaining to child custody and/or child visitation remains unresolved, even following private mediation, the Parties are required and ordered, prior to hearing or trial, to participate in good faith in "Court Mediation," which is paid for by the Court. "Court Mediation" is mediation with the Mediator approved by the Superior Court of California, County of Inyo (also referred to herein as the "Court Mediator.") The Office of the Clerk and Office of the Court's Administrator maintains a current list of Court approved Mediators. Parties may of course initially utilize the services of a court approved mediator, without having first attempted mediation in the private sector.

(b) Prior to attending Court Mediation, the Court requires and orders that the parties participate in the Court's Pre-Mediation Orientation program. To assist parties, the Court through its Family Court Services Program, provides Extended Family Law Facilitator Services and assistance from a Family Court Services Coordinator. Information and details about the Pre-Mediation Orientation program, and availability of assistance from the Family Law Facilitator and/or Family Court Services Coordinator is available at the Office of the Court Clerk.

(c) Attorneys should prepare clients to participate in mediation in an open, responsive, and receptive manner. Clients should be advised that the focus of mediation is on the present and future, and should come to mediation with proposals regarding residence, timesharing, education, child care, transportation, holidays, vacation, special needs of the children, and decision making responsibilities.

(d) Child Custody/Visitation mediation is confidential.
Notwithstanding this rule, the Court Mediator may under certain circumstances be required by law to report to Child Protective Services, and/or disclose the existence of threats of death or bodily harm in accordance with applicable law, including the Supreme Court's ruling in Tarasoff v. Board of Regent, 17 Cal.3d 425.

(e) Where an agreement is reached, the attorneys or parties shall prepare a written stipulation in the form of a stipulated order or judgment.

(f) If paternity is disputed, the issue need not be resolved by the Court prior to mediation. Mediation shall not be denied to the parties on the basis that paternity is an issue in the proceeding before the court. (Family Code § 3172) The Court may make a pendente lite order granting visitation to a non-custodial parent absent the tests authorized by Evidence Code § 621, upon a finding that the granting of such visitation rights would be in the best interests of the child.

(g) A non-English-speaking parent must be accompanied by a neutral individual who is fluent in both English and the party's native language in order for mediation to proceed.

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(h) In the event one of the parties to the mediation is not a resident of Inyo County, application can be made to the Court to waive participation in the pre-mediation orientation program and/or to participate in mediation telephonically.

(i) If the Court orders any party or child of a party, to participate in counseling as provided by Family Code § 3190, or any other provision of law, said party and their Counsel shall cooperate with the Family Court Services Coordinator in effectuating said counseling services. (Adop., Effective 01-01-02)

RULE 7.5 CHILD CUSTODY INVESTIGATIONS

(a) No peremptory challenge is permitted of any child custody investigator or evaluator appointed by the Court pursuant to the provisions of Family Code §§ 3110 et seq.

(b) A request by a party for a change of a court appointed child custody investigator or evaluator must be made by written motion, with service on counsel or the other party in propria persona. Such application may be made on an ex parte basis with at least 24 hours notice to the other party or counsel. Such requests will only be granted upon a strong showing of good cause.

(c) The grievance procedure outlined herein is not for the use of expressing dissatisfaction regarding recommendations made by any court appointed child custody investigator or evaluator.

(d) Any person with complaints about their experience with any court appointed child custody investigator or evaluator are encouraged to first raise their concerns with the individual involved and seek to resolve the concern.

(e) The court appointed child custody investigator or evaluator is not an employee of the Superior Court of the State of California, County of Inyo, but rather an independent contractor.

(f) Should a party wish to file a formal complaint, the same must be in writing, and served on the Presiding Judge of the Court. The Presiding Judge or his or her designee will review the complaint, investigate, and determine whether the complaint is meritorious. In the event the complaint is found to be meritorious, the Presiding Judge may in his or her discretion take such lawful action as the Presiding Judge deems appropriate, just, and proper. Such action may include removal of the court appointed child custody investigator or evaluator from the case involving the complaining party, and appointing another investigator or evaluator.
(Adopted, Effective January 1, 2002)

RULE 7.6 CHILDREN IN COURTROOM

While children who are the subject of litigation may appear at the courthouse, it is the policy of the Court not to have any subject child in the courtroom without the Court's prior knowledge and consent. Children shall remain the hallway, child's waiting room, or other appropriate and convenient location in the care of a responsible adult who is not a party to the action.

(Adopted, Effective January 1, 2002)

RULE 7.7 APPOINTMENT OF COUNSEL TO REPRESENT CHILD

(a) Governed by the provisions of Family Code §§ 3150 et seq., and California Rules of Court, Appendix Div. 1, Section 20.5, the Court in its discretion may appoint counsel to represent the minor children in family law cases.

(b) Counsel so appointed to represent the minor children shall have the following rights, unless otherwise limited by the Court's Order:

1. Reasonable access to the child with adequate notice;
2. Notice of any and all proceedings, including any request for examinations affecting the child;
3. Full access to all court pleadings and records as well as any medical, psychological, psychiatric, educational testing, and school records, as well as all records maintained by Inyo County Child Protective Services (CPS), except that the identity of the reporting party on any CPS referral or report shall remain confidential, unless the reporting party is one of the parents;
4. The right to veto any physical or psychological examination or evaluation, for purposes of hearing or trial, which has not been ordered by the Court;
5. The right to assert on behalf of the child any privilege for discovery purposes; and,
6. The right to seek independent psychological, educational, and/or physical examination or evaluation of the child upon application to the Court.

(Adopted, effective January 1, 2002)

RULE 7.8 FAMILY LAW FACILITATOR SERVICES

As authorized by Family Code Section 10005, and provided funding is available for the same, the Inyo County Family Law Facilitator shall have the following additional duties;

(a) With regard to the issues of child support and issues relating directly to the resolution of child support issues;

1. Meeting with litigants to mediate such issues;
2. Drafting stipulations to include all such issues agreed to by the parties;
3. If the parties are unable to resolve such issues with the assistance of the facilitator, prior to or at the hearing, and at the request of the court, reviewing the paperwork, examining documents, preparing support schedules, and advising the Judge whether or not the matter is ready to proceed with regard to such issues;
4. Preparing formal orders on such issues, consistent with the court's announced order in cases where both parties are unrepresented, as directed by the court;
5. Assisting the court with research and other responsibilities with regard to such issues, which will enable the court to be responsive to the litigants needs;
6. Serving as special master in proceedings with regard to such issues and making findings with regard to such issues to the court, except where the facilitator has served as a mediator in the case; and,
7. Developing programs for the Bar and community outreach through day and evening programs, video tapes, and other innovative means that will assist unrepresented and financially disadvantaged litigants to gain meaningful access to the Family Court regarding such issues.

(b) Work to enhance and improve services available in Inyo County to children and parents, relating to issues of child support and issues directly related to the resolution of child support issues by working with the local Bar, Family Support Division of the Inyo County District Attorney's Office, Inyo County Child Protective Services, Inyo County Victim-Witness Assistance Program, Inyo County Health and Human Services Department (including Welfare, Behavioral Health Services, Substance (Abuse programs), Inyo County Probation Department, Wild Iris Women's Services, and other community groups and legal service organizations or private practitioners which provide mediation or settlement services, domestic violence treatment services, visitation supervision services, counseling, or other services to children and/or parents related to child support.

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(c) Maintain records and statistical data and information pertaining to the services provided under this Rule and as may be required by Federal or State Law, California Rules of Court, or

as may be required by the Administrative Office of the Courts, or by the Inyo County Superior Court.
(Effective December 1, 1997)

RULE 7.9 ARBITRATION

Pursuant to the provisions of Family Code § 2554, the Court may in its discretion order arbitration of the character, value and division of the community estate, if in the Court's opinion, the total value of the community and quasi-community property in controversy does not exceed \$50,000.
(Adopted, effective January 1, 2002)

RULE 7.10 MANDATORY SETTLEMENT CONFERENCE

(a) Absent express leave of Court, a mandatory settlement conference shall be held before any dissolution of marriage action is set for trial.

(b) At least five (5) days prior to the date set for mandatory settlement conference, the parties shall serve and file a "Statement of Issues, Contentions, and Proposed Disposition of the Case." Said Statement shall include a full and complete statement of property, income, and expenses. Information contained in a Final Disclosure Statement may be incorporated by reference, with a copy attached. The Statement shall set forth the following information in the following order, as it applies to the party filing, except as hereafter provided:

1. Statistical Information: Date of marriage, date of separation, length of the marriage, names and dates of birth of the minor children, and any unusual facts shall be stated.

2. Agreements, Stipulations and Orders: Each party shall set out the terms of all pre-trial agreements and stipulations entered into by the parties, and all orders currently in effect.

3. Custody and Visitation: Each party shall set forth specific proposals for custody and visitation of the minor children. The report and recommendation, if any, of a court appointed child custody evaluator shall be referenced, and/or incorporated.

4. Separate Property: Each item of separate property shall be listed, the date it was acquired, the basis upon which it is claimed as separate rather than community property, the current market value, the nature, extent, and terms of payment of any encumbrance against the property, the manner in which title thereto is presently vested, and the record title data.

5. Community Property: Each item of community property shall be listed, the date it was acquired, the basis upon which it is claimed as community rather than separate property, the current market value, the nature, extent, and terms of payment of any encumbrance against the property, the manner in which title thereto is presently vested, and the record title data. Each party shall propose disposition of the community assets in the following format:

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The values shall be totaled and copies of any appraisals shall be attached. The proposal for the division of community property shall contain a statement of the party's position and the facts supporting it.

6. Debts: All debts and obligations of the parties which are liabilities of the community, and so far as known, debts and obligations which are alleged to be the separate liabilities of the respective spouses shall be listed. The identity of the creditor shall be specified, the purpose for which the debt was incurred, the date upon which the debt was incurred, the balance currently due thereon, the terms of payment, and the security, if any, held by the creditor. The obligations shall be listed in the following format:

CREDITOR	DATE OF SEP. BALANCE	CURRENT BALANCE	DATE/AND CURRENT PAID BY WIFE	DATE/AND CURRENT PAID BY HUSBAND
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7. Funds Held by Others: To the extent that either separate property or community property consists of funds held by others, such as insurance policies, pensions, profit sharing, or other trust or retirement funds, the statement shall fully identify the policy or fund, including policy, serial or account numbers, the present values and basis for calculation, and all terms or conditions imposed upon withdrawal of such funds. If any loans exist against any of these funds, the details regarding those loans should be set forth.

8. Tracing: If a segregation of community property and separate property interests in a single asset is to be an issue in the case, the statement shall set forth in detail, with dates, values, and dollar amounts, the transactions relevant to the tracing issue, as well as the basis for computation or proration.

9. Proposal For Property Division: Each party shall set forth a proposed equal division of the community property of the parties, giving due consideration to the liabilities, costs, and attorney's fees.

10. Reimbursement Credits: All issues of reimbursement shall include a discussion of the applicable law.

11. Current Income and Expenses: The Statement shall specify and set forth current income and expenses by completing and filing an Income and Expense Declaration in the form prescribed by the California Rules of Court, and as otherwise required by these local rules.

12. Child Support: Each party shall set forth a proposal for child support in conformity with the provisions of the Family Code and these Rules, and shall provide the computations upon which the party relies.

13. Spousal Support: Any proposal for spousal support shall include a statement of the appropriate tax consequences, if any, to be considered; a proposal for the duration of support; a statement as to the parties Marital Standard of Living; and, a statement with respect to the factors under Family Code § 4320.

14. Attorney Fees: The party requesting an award of attorney fees shall submit a statement of the time spent, amount charged, amount already paid, and the source of funds.

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15. Sanctions: A party requesting attorney fees and sanctions shall indicate the extent to which that conduct frustrates the policy to promote settlement and reduce the cost of litigation by encouraging cooperation.

(c) If the matter is not completely settled and set for trial, the Court may require the parties to serve and file another or amended Statement Of Issues, Contentions, And Proposed Disposition Of The Case prior to trial.
(Adopted, effective January 1, 2002)

RULE 7.11 DEFAULT OR UNCONTESTED PROCEEDINGS

In default and uncontested proceedings, the Court will review marital settlement agreements and proposed judgments, particularly with respect to child and spousal support. The Court will particularly scrutinize proposed judgments where one or both parties are in Pro Per, and the marriage

was of long duration. The Court may in its discretion direct the filing of Income and Expense Declarations or other documentation, and set the matter for further hearing regarding the entry of the judgment.
(Adopted, effective January 1, 2002)

VIII

PROBATE, GUARDIANSHIP, & CONSERVATORSHIP

RULE 8.1 PROBATE INVESTIGATOR

Contact information for the Court's Probate Investigator can be obtained by contacting the Court's Administrator at the Courthouse in Independence, CA (Post Office Drawer U Independence, CA 93526), or calling (760) 878-0217. (Adopted, Effective 1-1-02)

RULE 8.2 PROBATE REFEREE

Information pertaining to the appointment of a Probate Referee can be obtained by contacting the Court's Administrator at the Courthouse in Independence, CA (Post Office Drawer U Independence, CA 93526), or calling (760) 878-0217.
(Adopted, Effective January 1, 2002)

RULE 8.3 SETTLEMENT OF MINOR'S CLAIM

The following procedure shall be followed in the settlement of the claim of a minor whether by way of compromise, covenant not to sue, or stipulated judgment ("minor's compromise").

- (a) Requests for approval of minor's compromise shall be heard on the Probate Calendar.
- (b) The presence of the minor, the parent or guardian of the minor and counsel shall be required unless excused by the Court.
- (c) Current medical reports, if the matter is applicable to the physical condition of the minor, giving a diagnosis and prognosis of the minor's condition shall be attached to the petition.
- (d) As prescribed by Probate Code § 3601, the Court shall award "reasonable attorney's fees." In making such an award, the Court shall will consider the factors specified in California case law (See *Niederer v. Ferriera* (1987) 189 CA3d 1485; Witkin's *California Procedure* Volume 1, page 286, § 226). As a general guideline, claims for attorney's fees that exceed 25% of the net proceeds of the minor's compromise must be supported by a strong showing of reasonableness. (Adopted, Effective January 1, 2002)

RULE 8.4 GUARDIANSHIP FUNDS

As parents are required by statute to support their children, the Court will not permit guardianship funds to be used for the minor's maintenance where one or both parents are living except upon a showing of the parent's financial inability or other circumstances which would justify the Court in departing from this rule in the best interests of the minor. In all cases where guardianship funds are to be used for the ordinary expenses of supporting a minor, and where there is a parent living who has the obligation to support of the minor, the guardian must obtain Court approval prior to the expenditure of funds. A petition for authority to expend funds for support shall be accompanied by a detailed explanation (including financial statements, if necessary) of the parent's inability to support the child.
(Adopted, effective January 1, 2002)

RULE 8.5 REQUEST FOR WITHDRAWAL OF FUNDS IN BLOCKED ACCOUNT

(a) All requests or petitions for withdrawal of minor's funds deposited in a blocked account shall be made to the Court. Requests for withdrawal may be presented ex parte and shall be in completed form. A statement shall be presented with the petition verifying the amount of each item of the proposed expenditure.

(b) If the funds requested are for the support and maintenance of the minor and the petitioner is a parent, the parent shall file a declaration showing the parent's financial inability or other circumstances justifying the withdrawal. See Rule 8.4.

(c) No subsequent order for withdrawal will be signed by the Court until the trustee or guardian has complied with the directs of the Court contained in prior withdrawal orders. This means that all supporting vouchers and required certifications and declarations shall be on file with the Clerk.
(Adopted, effective January 1, 2002)

RULE 8.6 PUBLIC GUARDIAN FEES

This Court's Standing Order No. 01-003 "Establishing Public Guardian Fees," is incorporated herein by reference as though set forth fully and at length. (See also Rule 2.6*infra*) (Adopted, effective January 1, 2002)

IX

JUVENILE AND DEPENDENCY

RULE 9.1 STANDING ORDERS PERTAINING TO JUVENILE AND DEPENDENCY CASES

The following Standing Orders of this Court are incorporated herein by reference, as though set forth fully and at length:

(a) "Inyo County Protocol For The Administration Of Psychotropic Medication," Standing Order No. SO AD 01-001;

(b) "Order Pertaining To The Disclosure Of Juvenile Information," Standing Order No. 01-005; and,

(c) "Inyo County Juvenile Protocol Pursuant To Welfare & Institutions Code § 241.1," Standing Order No. 01-006.

(See also Rule 2.6 *infra*) (Adopted, effective January 1, 2002)

RULE 9.2 APPLICATION OF PSYCHOTROPIC MEDICATION PROTOCOL TO
JUVENILE AS WELL AS DEPENDENCY CASES

Pursuant to the provisions of *California Rules of Court*, Rule 1432.5(i), this Court's protocol for the administration of psychotropic medication (see this Court's Standing Order No. SO AD 01-001) shall be applicable to all children declared a ward of this Court under sections 601 or 602 of the California Welfare & Institutions Code who are removed from the custody their parent or guardian, as well as to all children declared a dependent child of this Court under section 300 of the California Welfare & Institutions Code and removed from the custody of their parents or guardian. (See also Rule 2.6 *infra*) (Adopted, effective January 1, 2002)

RULE 9.3 JUVENILE DEPENDENCY, JUVENILE DELINQUENCY, FAMILY,
DOMESTIC VIOLENCE, AND PROBATE COURTS EXCHANGE OF
INFORMATION

This rule addresses the exchange of information between Child Custody Evaluators (CCE) appointed by this Court pursuant to the provisions of Family Code § 3110 *et seq.*, Counsel appointed by this Court pursuant to the provisions of Family Code §§ 3150 *et seq.* to represent the child or children in a Family Law, Paternity, or Domestic Violence cases (CAC); Inyo County Juvenile Probation Department staff (JPD), Inyo County Child Protective Services staff (CPS), and this Court's Probate Court Investigator (PCI). The disclosure of information concerning children and their parents and caretakers by any of these agencies to each other is generally prohibited by law, unless specifically

authorized by court rule or order. Nevertheless, a limited exchange of information about children or their parents or caretakers will serve the best interests of the child who is before the Court and the administration of justice.

The Court hereby finds that the best interests of children appearing before the Juvenile, Family, Domestic Violence, and Probate Courts, the public interest in avoiding duplication of effort by the Courts and by the investigative agencies serving the Juvenile, Family, Domestic Violence, and Probate Courts and the value of having relevant information gathered by a court or court-serving agency outweighs the confidentiality interests reflected in Penal Code §§ 11167 and 11167.5, Welfare & Institutions Code §§ 827 and 10850, Family Code § 1818, and Probate Code § 1513, and therefore good cause exists for the following rule:

(a) Abuse/Neglect: CCE, PCI, and JPD may disclose to CPS staff who are investigating a suspected child abuse or neglect case, or involved in the investigation of a Welfare & Institutions Code § 241.1 protocol, the following information:

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1. Whether the child, his/her parents, guardians, or caretakers are or have been the subject of a custody, delinquency or probate investigation, the findings and status of that investigation, the recommendations made or anticipated to be made to the Court by CCE, PCI, or JPD, and any Court orders in existence with respect to the child, parents, guardians, or caretakers.

2. Any statement made by the child or the child's parents, guardians, or caretakers which might bear upon the issue of the child's best interests in the pending child abuse or neglect case. In addition, CCE, PCI, or JPD staff may give to CPS staff who are investigating or supervising a suspected child abuse case a copy of any court orders.

3. CPS may include this information in court reports and keep such information in their case files.

(b) Custody disputes: JPD, PCI, or CPS staff may disclose to the CCE investigating and/or evaluating a child custody dispute, JPD appointed to investigate a child custody dispute, and to the CAC, the following information:

1. Whether the child or his/her parents or caretaker are or have been the subject of a child abuse, neglect, probate or delinquency investigation, the findings and status of that investigation, the recommendations made or anticipated to be made to the Court by CPS, PCI,

or JPD and any court orders in existence with respect to the child, parent, or caretaker. The identity of the reporting party of a suspected child abuse or neglect report shall not be disclosed, unless the reporting party is one of the parents.

2. Any statements made by the child or the child's parents, guardians or caretakers which might bear upon the issue of the child's best interests in the pending Family Court or Domestic Violence matter. In addition, JPD, PCI, or CPS may give to the CCE, JPE, and CAC, who are investigating a child custody dispute a copy of any orders.

3. CCE may include this information in court reports and keep such information in their confidential case files.

(c) Delinquency: CCE, PCI or CPS may disclose to JPD staff who are investigating a delinquency case, or involved in the investigation of a Welfare & Institutions Code § 241.1 protocol, the following information:

1. Whether the child or his/her parents, guardian, or caretaker have been the subject of a child abuse, neglect, custody, or probate investigation, the findings and status of that investigation, the recommendations made or anticipated to be made to the Court by CCE, CPS, or PCI, and any Court orders in existence with respect to the child, parent, guardian, or caretaker.

2. Any statements made by the child's parents, guardians, or caretakers which might bear upon the issue of disposition in the delinquency proceeding. In addition, CCE, CPS, and PCI may give to JPD staff who are investigating or supervising a delinquency matter a copy of any court orders.

3. JPD may include this information in court reports and keep such information in their confidential case files.

(d) Probate: CCE, CPS, and JPD may disclose to PCI who are investigating a probate guardianship or conservatorship matter the following information:

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1. Whether the child or his/her parents, guardians, or caretakers have been the subject of a child abuse, neglect, custody, or delinquency investigation; the findings and status of that investigation; the recommendations made or anticipated to be made to the Court by

CPS, CCE, or JPD; and any court orders in existence with respect to the child, parents, guardians, or caretakers.

2. Any statements made by the child or the child's parents, guardians, or caretakers which might bear upon the issue of the child's best interests in the pending probate guardianship or conservatorship matter. In addition, CCE, CPS, and JPD may give to PCI who is investigating or supervising a probate guardianship or conservatorship matter a copy of any court orders.

3. PCI may include this information in court reports and keep such information in their confidential case files.

(Adopted, effective January 1, 2002)

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RULE 9.4 DEPENDENCY COUNSEL-QUALIFICATIONS

(a) Every party in a dependency hearing shall be entitled to competent counsel as defined in California Rule of Court 1438(b). All attorneys appearing in juvenile dependency proceedings must meet the minimum standards of competence set forth in these rules. These rules are applicable to attorneys representing public agencies, attorneys employed by public agencies, attorneys appointed by the court to represent any party in a juvenile dependency proceeding, and attorneys who are privately retained to represent a party to a juvenile dependency proceeding.

(b) Effective January 1, 2002, all attorneys who represent parties in juvenile court proceedings shall meet the minimum standards of training and/or experience set forth in these rules.

(c) Each attorney of record for a party to a dependency matter pending before the court on January 1, 2002, who believes that he or she meets the minimum standards of competency shall complete and submit to the Court, on or before February 1, 2002, a Certification of Competency as defined by these rules.

(d) Any attorney appearing before the Court in a dependency case pending on January 1, 2002, who does not meet the minimum standards of training or experience shall notify the Court to that effect and shall have until May 1, 2002 to complete the minimum number of hours of training required to fulfill the requirements of these rules. If the attorney fails to complete such training, the court shall order, except in cases where a party is represented by retained counsel, that certified counsel be substituted for the attorney who fails to complete the required training. In the case of retained counsel, the Court shall notify the party that his or her counsel has failed to meet the minimum standards required by these rules. The determination whether to obtain substitute private counsel shall be solely within the discretion of the party so notified.

(e) After January 1, 2002, any attorney appearing in a dependency matter for the first time shall complete and submit a Certification of Competency to the Court within ten (10) days of his or her first appearance in a dependency matter.

(f) Said Certification of Competency shall be in the form of a declaration, setting forth the attorney's California State Bar number, certifying that the attorney is an active member of the California State Bar in good standing, certifying that the attorney has met the minimum standards for dependency practice as set forth in California

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Rules of Court, Rule 1438 and this local rule, and detailing the attorney's completion of the minimum requirements for training, education, and/or experience.

(g) In the case of an attorney who maintains his or her principal office outside of this county, proof of certification by the Juvenile Court of the California county in which the attorney maintains an office shall be sufficient evidence of competence to appear in a juvenile proceeding in this County.

(h) Each attorney appearing in a dependency matter before the juvenile court shall not seek certification of competency and shall not be certified by the Court as competent until the attorney has completed the following minimum training and educational requirement. Prior to certification, the attorney shall have either:

1. Participated in at least eight hours of training or education in California juvenile dependency law, which training or education shall have included information on the applicable case law and statutes, the rules of court, judicial council forms, motions, trial techniques and skills, writs and appeals, child development, child abuse and neglect, family reunification and preservation, and reasonable efforts, or

2. At least six (6) months of experience in dependency proceedings in which the attorney has demonstrated competence in the attorney's representation of his or her clients in said proceedings. In determining whether the attorney has demonstrated competence, the court shall consider whether the attorney's performance has substantially complied with the requirements of these rules.

(i) In order to retain his or her certification to practice before the juvenile court in dependency matters, each attorney who has been previously certified by the Court shall submit a new Certificate of Competency to the Court on or before the January 31st of the third year after the year in which the attorney is first certified and then every third year thereafter. The attorney shall attach to the renewal Certification of Competency evidence that he or she has completed at least eight (8) hours of continuing training or education directly related to dependency proceedings since the attorney was last certified. Evidence of completion of the required number of hours of training or education may include a copy of a certificate of attendance issued by a California MCLE provider. Attendance at a program sponsored or approved by the Judicial Council of California may also fulfill this requirement.

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1. The attorney's continuing training or education shall be in the areas set forth above in subdivision (h)1 of this rule, or in other areas related to juvenile dependency practice including, but not limited to, special education, effects of domestic violence on children, mental health, health care, substance abuse, immigration issues, the rules of evidence, adoption practice, parentage issues, the Uniform Child Custody Jurisdiction and Enforcement Act, the Parental Kidnapping Prevention Act, state and federal public assistance programs, the Indian Child Welfare Act, client interviewing and counsel techniques, case investigation and settlement negotiations, mediation, basic motion practice and the rules of civil procedure.

2. When a certified attorney fails to submit evidence that he or she has completed at least the minimum required training and education to the Court by the due date, the Court shall notify the attorney that he or she will be decertified. That attorney shall have twenty (20) days from the date of the mailing of the notice to submit evidence of his or her completion of the required training or education. If the attorney fails to submit the required evidence or fails to complete the required minimum hours of continuing training or education, the Court shall order, except in cases where a party is represented by retained counsel, that certified counsel be substituted for the attorney who fails to complete the required training. In the case of retained counsel, the Court shall notify the party that his or her counsel has failed to meet the minimum standards required by these rules. The determination whether to obtain substitute counsel shall be solely within the discretion of the party so notified.

(Adopted, effective January 1, 2002)

RULE 9.5 STANDARDS OF DEPENDENCY REPRESENTATION

(a) All attorneys appearing in dependency proceedings shall thoroughly investigate the accuracy of the allegations of the petition or other moving papers and the court reports filed in support thereof. This shall include conducting a comprehensive interview with the client to ascertain his or her knowledge of and/or involvement in the matters alleged or reported; contacting social workers and other professionals associated with the case to ascertain if the allegations and/or reports are supported by accurate facts and reliable information; consulting with and, if necessary, seeking the appointment of experts to advise the attorney or the Court with respect to matters which are beyond the expertise of the attorney and/or the Court; and obtaining such other facts, evidence, or information as may be necessary to effectively present the client's position to the Court. To the extent reasonably possible, the attorney shall determine the client's interests and the positions the client wishes to take in the matter. The attorney shall advise the client of the possible courses of action and of the risks and benefits of each. This shall include advising the client of the risks and benefits of resolving disputed matters without the necessity of a hearing, and of the necessity for adhering to court and/or statutorily mandated time limits.

(b) Counsel for the child in a dependency proceeding is charged with representation of the child's interests, and as provided below, said representation may include causes of action and other interests to be advanced or protected by administrative or judicial proceedings outside, as well as inside the juvenile court system.

1. Absent exceptional circumstances, the attorney for the child shall have reasonable personal contact with the child regardless of age, and shall interview any child four years or older so the attorney may effectively represent to the Court how the child's wishes and interests may best be addressed. If the child is placed out of the home, in addition to interviewing the child, the attorney shall also interview the child's caretaker.

2. The attorney for the child shall conduct reasonable investigation of any causes of action or interests of the child beyond the scope of the dependency proceeding, and shall immediately advise the juvenile court in writing of information regarding any interest or right of the child to be protected or pursued in other judicial or administrative forums, recommending what action, if any, should be taken by counsel on behalf of the child (including possible joinder of public agencies in the dependency action), and requesting authorization and/or direction from the Court.

3. Upon receipt of the information, recommendation, and request by counsel, the Court shall do one or all of the following:

(A) Refer the matter to the appropriate agency for further investigation, and require a report to the Court and counsel within a reasonable time;

(B) Authorize and direct the child's attorney to initiate and pursue appropriate action;

(C) Appoint a guardian ad litem for the child if one is required to initiate and pursue appropriate action; and,

(D) Take any other action the Court deems reasonable and necessary to protect the interests and rights of the child.

(c) The Presiding Judge in consultation with the Presiding Judge of the Juvenile Court will regularly review the caseload of counsel appointed by the Court to represent parties in dependency cases. Prior to accepting any

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appointment to represent a party in a dependency action, Counsel shall disclose to the Court any concern Counsel might have with respect to the effect, if any, accepting such appointment might have on Counsel's ability to provide effective and competent representation to his or her clients, and/or the party to the dependency action to whom Counsel is about to be appointed.

(Adopted, effective January 1, 2002)

**RULE 9.6 PROCEDURES FOR REVIEWING AND RESOLVING COMPLAINTS IN
DEPENDENCY PROCEEDINGS**

(a) Any party to a dependency action may lodge a written complaint with the Presiding Judge concerning the performance of his or her appointed attorney in a dependency court proceeding. In the case of a complaint concerning the performance of an attorney appointed to represent a minor, the complaint may be lodged on the child's behalf by the Child Protective Services Worker, a relative, foster parent, or caretaker.

(b) As mandated by California Rules of Court, Rule 1438(d) each appointed attorney in a dependency action shall give written notice to his or her adult client of the procedure for lodging complaints with the Court concerning the performance of appointed counsel. The notice shall be given to the client within ten (10) days of the attorney's appointment to represent that client. Evidence that a copy of said notice was given or mailed to the client shall be provided to the Court within ten (10) days of a request therefore from the Court. In the case of a minor client, the notice shall be mailed or given to the current caretaker of the child. If the minor is twelve (12) years of age or older, a copy of the notice shall also be sent or given to the minor.

(c) The Presiding Judge shall review a complaint within ten (10) days of receipt. If the Presiding Judge determines that the complaint presents reasonable cause to believe that the attorney may have failed to act competently or has violated state or local rules, the Presiding Judge shall notify the attorney in question of the complaint, shall provide the attorney with a copy of the complaint and shall give the attorney twenty (20) days from the date of the notice to respond to the complaint in writing.

(d) After a response has been filed by the attorney or the time for submission of a response has passed, the Presiding Judge shall review the complaint and response, and take such action as the Presiding Judge deems just and appropriate. The Presiding Judge may request additional information from the complainant and/or the attorney prior to making a determination on the complaint, and the Presiding Judge may order a Marsden or other type of hearing to be held before making a determination on the complaint. The Presiding Judge may designate another judge, commissioner, referee, judge pro tempore, or any qualified member of the bar to act as hearing officer and to report to the Presiding Judge. Any such hearing shall be reported, and shall not be open to the public.

(e) The Presiding Judge shall notify the complainant and the attorney in writing of his or her determination. If the Presiding Judge determines that the attorney has acted contrary to state or local rules of court, or finds that the attorney acted incompetently, the Presiding Judge may remove the attorney from representing party affected and appoint other counsel, privately or publicly reprove the attorney, require the attorney to successfully complete a specific program of continuing education, impose reasonable monetary sanctions against the attorney as the Presiding Judge may deem appropriate, refer the matter to the California State Bar for further action, and/or notify the Court's Executive Officer

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and/or County Administrator responsible for contracting for public defender/attorney services in dependency cases of the Court's findings and determinations.

(f) Whether or not an initial hearing was held, if the Court makes a finding that an attorney has violated a state or local rule or otherwise acted incompetently, the attorney may request a review hearing. Said request for a review hearing shall be made in writing to the Presiding Judge within fifteen (15) days of the Presiding Judge issuing his or her written determination. If the attorney requests a review hearing, the attorney shall serve a copy of the request on the complaining party. The review hearing shall be held as soon as practicable after the attorney's request therefore, except the complainant and the attorney shall each be given at least ten (10) days notice of the hearing. The review hearing shall be held before the Presiding Judge or another judge of this Court as the Presiding Judge may designate. The review hearing shall be reported and shall not be open to the public. At the review hearing, each party shall have the right to present arguments with respect to the Presiding Judge's determination. Such arguments shall be based on the information or evidence before the court at the time the determination was made. No new evidence may be presented unless the party offering such evidence can show that it was not reasonably available to the party at the time that the Presiding Judge made his or her initial determination with respect to the complaint. The attorney may however present additional evidence with respect to the appropriateness of discipline imposed, and/or action taken with respect to the attorney. If the attorney does offer additional evidence with respect to the discipline imposed or action taken, the complainant may then also offer evidence related to said discipline and/or action. Within ten (10) days after the review hearing, the Presiding Judge or Judge conducting the review hearing, shall issue a written determination upholding, reversing, or amending the original determination. The review hearing decision shall be the final determination of the Court with respect to the matter. A copy of the review hearing decision shall be provided to both the complainant and the attorney.

(Adopted, effective January 1, 2002)

X

CRIMINAL

RULE 10.1 SETTING OF POST-PRELIMINARY EXAMINATION ARRAIGNMENT AND
SETTLEMENT CONFERENCES

(a) Upon making a holding order, the Judge presiding over the preliminary examination will generally set the matter for arraignment and settlement conference within fifteen (15) days of the conclusion of the preliminary examination. The combined arraignment and settlement conference hearing will be set in Dept. 1 of this Court, generally on a Thursday morning immediately preceding a Friday adult law and motion calendar, and will generally be set before the Judge who presided over the preliminary examination.

(b) Absent a showing of good cause, the District Attorney's Office shall have communicated in writing their settlement position to defense counsel, or if unrepresented to the Defendant, prior to the settlement conference.

(c) Notwithstanding the execution of a Penal Code § 977 waiver, the Court will order each Defendant to personally appear at their felony settlement conferences, unless good cause exists for conducting the conference in the Defendant's absence.

RULE 10.2 PRE-TRIAL MOTIONS

(a) Absent a showing of good cause, in limine motions shall be noticed and heard at, or prior to the pre-trial conference. Motions to suppress evidence pursuant to the provisions of Penal Code § 1538.5 shall be noticed and heard as provided by statute, and should be heard prior to the pre-trial conference. Unless otherwise provided by law, absent a showing of good cause, pre-trial motions should be properly noticed and heard prior to the pre-trial conference. Said pre-trial motions include, but are not necessarily limited to the following: Severance motions, Motions to bifurcate, Castro motions to impeach defendant with prior convictions pursuant to Evidence Code § 788, motions to suppress admission or confession on Miranda or voluntariness grounds, motions to suppress identification, Aranda/Bruton motions, motion for courtroom demonstrations, motions for permission to view the scene, and/or motions to exclude evidence pursuant to the provisions to Evidence Code § 352.

(b) Motions for continuances shall be noticed and heard at the earliest possible time, and absent a showing of good cause, shall not be heard after the pre-trial conference.
(Adopted, Effective January 1, 2002)

RULE 10.3 PRE-TRIAL CONFERENCES

(a) Notwithstanding the execution of a Penal Code § 977 waiver, the Court will order each Defendant to personally appear at their felony pre-trial conferences, unless good cause exists for conducting the conference in the Defendant's absence.

(b) At least two days prior to any scheduled misdemeanor or felony pre-trial conference, all parties shall have served and filed the following:

1. Witness List;
2. Exhibit List;
3. Preliminary Requests for *CALJIC* and Special Jury Instructions;
4. A statement identifying any complex legal or evidentiary issues, the parties' respective positions, anticipated factual support, with a supporting memorandum of points and authorities;

5. Proposed prospective juror questionnaires and proposed questions, if any, for the Court to ask prospective jurors during voir dire examination;

6. Any unresolved in limine motions, including motions to exclude witnesses; and,

7. The prosecution shall present proposed Verdict forms, including any special findings.

(c) At the Pre-Trial Conference the parties shall be prepared to discuss and/or engage in the following:

1. To engage in good faith in final settlement negotiations;

2. Discuss possible amendment of the Information for the limited purpose of reading the charges to prospective jurors;

3. Participate in a pre-voir dire conference;

4. Number of peremptory challenges and order of exercise of peremptory challenges;

5. Number of alternate jurors;

6. Preinstruction of the jury, and preliminary discussion of closing *CALJIC* and special jury instructions;

7. Order of examination in multi-party cases;

8. Discussion of any complex evidentiary or legal issues;

9. Pre-marking of exhibits;

10. Stipulations;

11. Any issues triable by the Court as opposed to the jury;

12. Any revision in the estimate of the length of trial; and,

13. Scheduling problems including those of Witnesses and Counsel.
(Adopted, effective January 1, 2002)

XI

APPELLATE DIVISION

RULE 11.1 APPELLATE DIVISION ASSIGNMENTS

Each year the Chief Justice of California, as Chair of the Judicial Council of California appoints three Superior Court judges to sit as the Appellate Division for the Superior Court of California, County of Inyo. Historically, the Appellate Division has consisted of a Superior Court judge from Inyo, Mono, and Alpine counties, with the assigned judge from Inyo County serving as the Presiding Judge of the Appellate Division. Information concerning the current assignment of judges to the Appellate Division can be obtained from the Judicial Council of California, or from the Executive Officer of the Inyo County Superior Court at 301 West Line Street Bishop, CA 93514, or by calling (760) 872-2599.

(Adopted, effective January 1, 2002)

RULE 11.2 ORAL ARGUMENT

Appeals to the Appellate Division of the Superior Court of California, County of Inyo shall be submitted on the briefs without oral argument, unless oral argument is requested by any party or ordered on the Court's own motion. Requests for oral argument shall be in writing, served and filed within ten (10) days of the filing of Appellant's Reply Brief.

(Adopted, effective January 1, 2002)

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